

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
KHAN, : 05-CV-4922 (SHS)
 :
 Plaintiff, : September 26, 2006
 :
 v. : 500 Pearl Street
 : New York, New York
 UBS FINANCIAL SERVICES, INC., :
 :
 Defendant. :
-----X

TRANSCRIPT OF CIVIL CAUSE FOR TELEPHONE CONFERENCE
BEFORE THE HONORABLE DEBRA C. FREEMAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: STEPHEN A. WHINSTON, ESQ.
SELIM ABLO, ESQ.
Berger & Montague, P.C.
1622 Locust Avenue
Philadelphia, PA 19103

For the Defendant: DOROTHY ROSENSWEIG, ESQ.
BARBARA A. GROSS, ESQ.
Epstein, Becker & Green, P.C.
250 Park Avenue
New York, New York 10177

Court Transcriber: SHARI RIEMER
TypeWrite Word Processing Service
356 Eltingville Boulevard
Staten Island, New York 10312

Proceedings recorded by electronic sound recording,
transcript produced by transcription service

1 THE COURT: Who do I have on the call, please?

2 MS. ROSENSWEIG: You have from Epstein, Becker &
3 Green, Dorothy Rosensweig and Barbara Gross, representing
4 defendants.

5 THE COURT: Welcome back.

6 MS. ROSENSWEIG: Thank you, Your Honor.

7 MR. WHINSTON: Representing the plaintiff, this is
8 Stephen Whinston of Berger & Montague and with me is my
9 colleague, Selim Ablo.

10 THE COURT: Okay.

11 I do have a tape running on this in case anyone wants
12 to try to make a transcript of this call and I do have sitting
13 in, not one of my law clerks but a student intern who is
14 working with me this semester, his name is Ethan Cobrie [Ph.].

15 So if you are interested in getting a tape of this,
16 just let me know and we can take it from there.

17 I just got handed to me a letter from Mr. Whinston
18 dated September 25th. I have been rather tied up. So I just
19 got that and my clerk had printed out the cases that are
20 referred to; RLS and this other case which I had just been
21 looking at but I didn't even finish reading the two cases. I
22 read the cover letter and I read half of the first case. So
23 just so you know that on that issue that the letter is relevant
24 to which is whether the trial depositions or preservation
25 depositions or de bene esse depositions, or whatever you want

1 Okay.

2 I just think that it's only fair that if I'm going to
3 look at authority on one side, I look at authority on the other
4 side.

5 All right.

6 Let me move on, then, to the outstanding issues that
7 I am aware of and if there's something else that I'm forgetting
8 you will let me know.

9 First, with respect to Ms. Eckstein, did you have a
10 chance to pull a copy of her separation agreement and take a
11 look at that paragraph that I referred to the last time around?

12 MS. GROSS: Your Honor, this is Ms. Gross.

13 We have produced Paragraph 12 of the settlement
14 agreement.

15 THE COURT: Okay.

16 I'm not going to require further production, nor am I
17 going to require production of the three additional documents
18 that were provided in this vein. There were three letters that
19 were given to me to look over that related to Ms. Eckstein in
20 various ways and I have reviewed those and I am not going to
21 require production if on nothing else on relevance grounds
22 based on my understanding of the issues in this case.

23 Moving to the documents that were on the defendant's
24 privilege log there were the first three that were given to me
25 to look at apart from any rulings I made on the record when you

EXHIBIT B

Page 2

1 APPEARANCES:

2
3 BERGER & MONTAGUE, P.C.
4 BY: STEPHEN A. WHINSTON, ESQUIRE
5 and
6 KEINO R. ROBINSON, ESQUIRE
7 1622 Locust Street
8 Philadelphia, Pennsylvania 19103
9 (215) 875-3000
10 swhinston@bm.net
11 krobinson@bm.net
12 Counsel for the Plaintiff

13
14 EPSTEIN BECKER & GREEN, P.C.
15 BY: DOROTHY ROSENSWEIG, ESQUIRE
16 250 Park Avenue
17 New York, New York 10177-1211
18 (212) 351-4500
19 drosensweig@ebglaw.com
20 Counsel for Defendant

21
22 CHARLES K. GRABER, ESQUIRE
23 150 South Warner Road
24 Suite 156
King of Prussia, Pennsylvania 19406
(610) 535-6420
cgraber@graber-law.com
Counsel for Witness

ALSO PRESENT:

18
19 CLAUDIA M. COHEN, ESQUIRE
20 Senior Associate General Counsel
21 UBS Financial Services, Inc.
22 1200 Harbor Boulevard
23 Weehawken, New Jersey 07087
24 (201) 352-0064

MAJOR KHAN
DAVID LEVIN, Videographer

Page 3

1	---	
2	I N D E X	
3	WITNESS	PAGE NO.
4	LORI ECKSTEIN	
5	By Mr. Whinston	6
6	---	
7	E X H I B I T S	
8	NO. DESCRIPTION	PAGE NO.
9	Eckstein-1 Sworn statement, MK 000296 - 302	105
10	Eckstein-2 Letter of warning, D 2312 - 2314	181
11	Eckstein-3 Memoranda, D 0176 & 177	201
12	Eckstein-4 Salary increase review form, D 2456 - 2459	265
13	Eckstein-5 5/5/03 E-mail, D 0337	275
14	Eckstein-6 5/8/03 E-mail, D 0138	277
15	Eckstein-7 Incentive or salary increase worksheet, D 2443 - 2447	279
16	Eckstein-8 2003 Mid Year Self-Assessment, D 0122 - 124	289
17	Eckstein-9 2003 Mid Year Appraisal, D 0118 - 0121	294
18		
19		
20		
21		
22		
23		
24		

Page 4

1 DEPOSITION SUPPORT INDEX

2 Direction to Witness Not To Answer

3	Page	Line	Page	Line
4	86	3	129	12
5	116	10	129	23
6	123	12	130	9
7	125	16	132	23
8	127	21	150	22
9	129	1		

10 Request For Production of Documents

11	Page	Line	Page	Line
12	10	23	198	12
13	13	20	305	20
14	173	23		

15 Stipulations

16	Page	Line	Page	Line
17	None			

18 Questions Marked

19	Page	Line	Page	Line
20	None			

Page 5

1
2
3 VIDEOPHOTOGRAPHER: We are now on
4 the record. My name is David
5 Levin. I'm the videographer
6 employed by Esquire Deposition
7 Services, 1600 JFK Boulevard, 12th
8 floor, Philadelphia, Pennsylvania.
9 This is a video deposition for the
10 United States District Court,
11 Southern District of New York,
12 Number 05-CV4922. Today's date is
13 Thursday, March 30, 2006 and the
14 video time is 10:08 a.m.

15 This deposition is being
16 held at 1622 Locust Street,
17 Philadelphia, Pennsylvania in the
18 matter of Major Khan versus UBS
19 Financial Services, Incorporated.
20 The deponent is Lori Eckstein.
21 This deposition is being taken on
22 behalf of the plaintiff. All
23 counsel will be noted on the
24 stenographic record.

The court reporter's name is

2 (Pages 2 to 5)

LORI ECKSTEIN

<p style="text-align: right;">Page 6</p> <p>1 Linda Rossi, and she will now 2 swear this the witness. 3 - - - 4 LORI ECKSTEIN, after having 5 been duly sworn, was examined and 6 testified as follows: 7 - - - 8 MR. GRABER: Read and sign, 9 please. 10 - - - 11 EXAMINATION 12 - - - 13 BY MR. WHINSTON: 14 Q. Would you state your name 15 and address for the record, please? 16 A. Lori Eckstein, 1159 Bucks 17 Road, Perkasio, Pennsylvania. 18 Q. Ms. Eckstein, my name is 19 Steve Whinston. I introduced myself to 20 you formally just before we started. I'm 21 one of the attorneys representing Major 22 Khan in this litigation against -- that 23 he has filed against UBS Financial 24 Services.</p>	<p style="text-align: right;">Page 8</p> <p>1 asking, please ask me to rephrase and 2 I'll be happy to do that. 3 A. Okay. 4 Q. During the course of the 5 deposition, I will be showing you some 6 documents and asking you questions about 7 those documents. You have the absolute 8 right at any time during the deposition 9 to read the entire document cover to 10 cover if you want to in connection with 11 your response to those questions, even 12 though I may be asking you only about one 13 paragraph of the document. Do you 14 understand that? 15 A. Yes. 16 Q. You also have the -- I would 17 be happy to accommodate any request that 18 you may have to take a break, just let me 19 know and we'll be happy to do that. 20 We'll, generally speaking, try to take a 21 break every hour or hour and a half 22 whether or not you ask for it, because I 23 may need it. Okay? 24 From time to time your</p>
<p style="text-align: right;">Page 7</p> <p>1 Today I'm going to be asking 2 you some questions in connection with a 3 deposition which is being taken of you 4 pursuant to notice. There are certain 5 rules that I want to discuss with you 6 about the deposition just to make sure 7 that we both understand what this 8 procedure is all about. 9 You understand that you have 10 been sworn to provide answers under oath? 11 A. I do. 12 Q. And in order for the record 13 to be clear, it would be appreciated if 14 you would let me finish my questions 15 before responding, and I will let you 16 finish your answers before going on to 17 the next question. If ever you feel that 18 I've interrupted you or not allowed you 19 to finish your answer, please let me know 20 and I will give you that opportunity to 21 complete your answer. Okay? 22 If there are any ambiguities 23 or uncertainties in my questions, if you 24 don't understand anything that I'm</p>	<p style="text-align: right;">Page 9</p> <p>1 counsel may have questions -- may have 2 objections to make to the questions, and 3 he will instruct you what to do in light 4 of those objections. 5 A. Okay. 6 Q. Okay? 7 A. Great. 8 Q. Where are you currently 9 employed? 10 A. I'm not. 11 Q. When were you last employed? 12 MR. GRABER: Steve, Ms. 13 Eckstein, I'm sure, will tell you 14 that the last time she was 15 employed was with UBS. However, 16 there is a written agreement 17 between her and UBS that would 18 prohibit her from disclosing the 19 last date of her employment. I 20 should note for the record that 21 the existence of the agreement is 22 itself confidential. However, on 23 behalf of UBS, I have been advised 24 by Ms. Rosensweig and Ms. Cohen</p>

3 (Pages 6 to 9)

LORI ECKSTEIN

<p style="text-align: right;">Page 10</p> <p>1 that Ms. Eckstein is permitted to 2 tell you that there is an 3 agreement but the terms and 4 conditions of the agreement are 5 confidential. 6 BY MS. ROSENSWEIG: 7 Q. Okay. When were you last 8 employed by UBS? 9 MR. GRABER: Again, I 10 instruct the witness not to answer 11 based upon that agreement. 12 BY MR. WHINSTON: 13 Q. When did you begin 14 employment by UBS? 15 A. I believe October 2002. 16 Q. And what was your employment 17 immediately prior to working for UBS? 18 A. I was with Prudential 19 Securities as a branch manager in 20 Mooristown, New Jersey. 21 Q. Morristown? 22 A. Mooristown, New Jersey. 23 MR. WHINSTON: For the 24 record, just in regard to that</p>	<p style="text-align: right;">Page 12</p> <p>1 exactly where. 2 Q. Were you recruited for a 3 specific position? 4 A. No. 5 Q. Did you interview with 6 anyone at UBS? 7 A. A number of people. 8 Q. With whom? 9 A. Barry Buchsbaum, Tim 10 Sennatt, Dave Zoll. And there may be 11 others, I just can't recall at this time. 12 Q. When did those interviews 13 take place? 14 A. Prior to me joining UBS and 15 up to a year prior to my start date. 16 Q. So when were you -- when 17 were you first contacted by the 18 recruiting firm in connection with a 19 potential position with UBS? 20 A. I don't recall the exact 21 date. But I know it was probably a year 22 in advance. 23 Q. So sometime in the fall of 24 2001?</p>
<p style="text-align: right;">Page 11</p> <p>1 last comment, we would request 2 production of this written 3 agreement that you've referenced 4 from UBS. 5 MS. ROSENSWEIG: Take it 6 under advisement. 7 MR. WHINSTON: Right. 8 BY MR. WHINSTON: 9 Q. How long had you been a 10 branch manager? 11 A. About three and a half 12 years. 13 Q. And what were the 14 circumstances of your leaving that 15 position and taking the position with 16 UBS? 17 A. I was recruited by UBS. 18 Q. Who recruited you from UBS? 19 A. There was an outside firm, 20 Leitner, Sarch & Associates and then 21 there was a number of people within UBS. 22 Q. Where is that firm, 23 recruiting firm located, if you know? 24 A. In New Jersey. I don't know</p>	<p style="text-align: right;">Page 13</p> <p>1 A. Possibly. I'm not certain. 2 Q. When -- when was your first 3 interview with anyone at UBS? 4 A. I don't know the exact date. 5 Q. Was -- did you have any -- 6 do you recall -- were there any 7 interviews that you had in connection 8 with this position which occurred in 9 2001? 10 A. I don't know. 11 Q. Do you keep a calendar? 12 A. I do. 13 Q. Would your -- do you have a 14 calendar that reflects meetings -- 15 A. Yes. 16 Q. -- in connection with 17 this -- in connection with your recruit 18 by UBS? 19 A. Yes. 20 MR. WHINSTON: We request 21 production of those documents. 22 BY MR. WHINSTON: 23 Q. Did you continue to maintain 24 a calendar while you were employed by</p>

EXHIBIT C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
:
MAJOR KHAN, :
:
Plaintiff, : 05-CV-4922
v. : August 4, 2006
:
UBS FINANCIAL SERVICES, INC., : 500 Pearl Street
:
Defendants. : New York, New York
:
-----X

TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE HONORABLE DEBRA C. FREEMAN
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiff: STEPHEN A. WHINSTON, ESQ.
Berger & Montague, P.C.
1622 Locust Street
Philadelphia, PA 19103

KEINO R. ROBINSON, ESQ.
Berger & Montague
1622 Locust Street
Philadelphia, PA 19103

For the Defendant: DOROTHY ROSENSWEIG, ESQ.
Epstein, Becker & Green, P.C.
250 Park Avenue
New York, NY 10177

BARBARA ROSE, ESQ.
Epstein, Becker & Green, P.C.
250 Park Avenue
New York, NY 10177

Court Transcriber: RUTH ANN HAGER
TypeWrite Word Processing Service
356 Eltingville Boulevard
Staten Island, New York 10312

Proceedings recorded by electronic sound recording,
transcript produced by transcription service

1 THE COURT: I have all of the papers I think that
2 anyone has submitted on any of these disputes, and I must tell
3 you it is a formidable stack.

4 We are going to record this. It's a digital
5 recording. It will be stored. If anyone wants a transcript of
6 it, it can be made. And this is Khan v. UBS Financial, and if
7 we could just have your appearances for the record and so I
8 know who's who.

9 MR. WHINSTON: If it may please the Court, Stephen
10 Whinston of the law firm of Berger & Montague for the plaintiff
11 and here is my colleague, Keino Robinson.

12 THE COURT: Okay. Good afternoon.

13 MR. ROBINSON: Good afternoon.

14 MS. ROSENSWEIG: Your Honor, Dorothy Rosensweig,
15 Epstein, Becker & Green, P.C., for the defendant and with me is
16 my colleague, Barbara Rose.

17 THE COURT: Okay. The people in the back are they
18 with you today?

19 MS. ROSENSWEIG: And behind me is [inaudible]. She's
20 in-house counsel for UBS.

21 THE COURT: Okay.

22 MR. WHINSTON: And behind me is the plaintiff, Major
23 Khan.

24 THE COURT: All right. Okay. I'll note that there
25 have been several motions made, all of which have now been

1 they'll have fun saying --

2 MR. WHINSTON: It's spelled the same way. Like
3 Leonard Bernstein.

4 THE COURT: Eckstein pronounced Eckstein. Okay.

5 MR. WHINSTON: Ms. Eckstein is the -- I would
6 describe her as the principal accuser of Mr. Khan in connection
7 with the events that led to his termination. She was his
8 immediate supervisor and when we deposed her, she declined to
9 answer a number of very significant questions. When did she
10 leave UBS? What were the reasons for her departure? And it
11 came out during the deposition that there was a termination
12 agreement and that in order for us to properly cross-examine
13 Ms. Eckstein, I believe we are entitled to that information.

14 If there were -- the circumstances of her departure
15 may reflect adversely on her performance of duty. They may
16 relate to Mr. Khan's termination, they may relate to other
17 items that right now we're totally in the dark about. And
18 because of the centrality of her role in connection with his
19 termination --

20 THE COURT: Well, let's say she was terminated for
21 some misconduct that had nothing whatsoever to do with either
22 Mr. Khan or any kind of discriminatory conduct by her. I mean,
23 what if she stole company property or made something up or what
24 if she, you know, was arrested for speeding and the company
25 decided they didn't want someone with an arrest record? What

1 if it had absolutely nothing to do with him? Why would that be
2 relevant?

3 MR. WHINSTON: I think perhaps in those instances it
4 might not, but I think there's a whole range of circumstances.
5 How she dealt with her subordinates and how she dealt with her
6 co-workers is a critical issue in this case, and we believe
7 we're entitled to know if the termination had anything to do
8 with that.

9 There may be a number of other different reasons that
10 I -- you know, I could come up with a list a couple of pages
11 long of potential reasons for her termination that would be
12 relevant here, and perhaps -- in addition --

13 THE COURT: All this is assuming she was -- she was
14 terminated, as opposed to she -- did she testify that she
15 resigned or that she was terminated?

16 MR. WHINSTON: No, there was a termination and there
17 was a termination agreement, and that termination agreement
18 limit -- apparently, from what we understand, limits the nature
19 of her ability to testify and to provide information
20 in litigation. And if those constraints related to her
21 deposition testimony or if the payments made to her are
22 significant and strained --

23 THE COURT: I'm sorry, limitations on her ability to
24 testify and yet she gave deposition testimony?

25 MR. WHINSTON: She did, but she refused to answer --

1 THE COURT: So --

2 MR. WHINSTON: -- a number of questions such as when
3 she left. I mean, we don't know when she left UBS. She
4 refuses to answer that question, that simple factual question.
5 Was it the day after Mr. Khan was terminated? I don't know,
6 but that is a potentially -- that's a fact that's of potential
7 interest and potential relevance, and we just don't know the
8 answer to that.

9 There's a termination agreement that contains who
10 knows what, but it also provided for, as I understand it,
11 from as I gather from her testimony for the payment of funds to
12 Ms. Eckstein. And if it's a strange number and strange
13 circumstances a lot of inferences could be drawn from that, and
14 I believe we're entitled to that information so that we're --
15 so that we could ask the jury to draw those inferences in the
16 appropriate circumstances.

17 Right now we're in the dark and we don't know what
18 happened. We're entitled to that information. I would also
19 note, by the way, that I'm entirely comfortable with having
20 this be confidential. We're not seeking to disclose this
21 information. We have no grudge to bear against Ms. Eckstein.
22 She's not a defendant in the case, but she was Mr. Khan's
23 direct supervisor. She was the individual that was responsible
24 for his termination, and I believe we're entitled to find out
25 the reason for her termination and the agreement that she

1 reached with UBS about that.

2 THE COURT: Now, what about this issue of potential
3 claims by her against the company? What relevance would that
4 have?

5 MR. WHINSTON: Well, if she's claiming that the
6 company acted in a certain way that may be consistent or
7 inconsistent with what Mr. Khan is alleging how the company
8 acted, we should be able to see that information.

9 THE COURT: In other words, if she is claiming that
10 she -- she might have a claim for discrimination?

11 MR. WHINSTON: For example. Sure. If she's claiming
12 that the same people that Mr. Khan alleged discriminated
13 against him, she alleges that they discriminated against her,
14 although it could have been sexual discrim -- gender
15 discrimination rather than national origin, racial
16 discrimination. That would be relevant information.

17 THE COURT: I'll hear from defendant on it.

18 MS. ROSENSWEIG: Certainly, Your Honor. You know,
19 it's a little bit difficult for me to speak, especially with
20 the plaintiff in the room because I'm concerned about breaching
21 the confidentiality of the agreement that exists, but
22 Mr. Whinston has misspoken in a number of respects.

23 Ms. Eckstein did not testify that she was terminated,
24 and that's not the case. And if Your Honor examines the
25 agreement, you'll see in the agreement, you know, the terms of

1 there in a very long paragraph there, there is a parallel
2 provision that UBS has to give Ms. Eckstein notice.

3 THE COURT: All right. Well, why don't you provide
4 my -- do you have an extra copy today?

5 MS. ROSENSWEIG: Yes, I do, Your Honor.

6 THE COURT: Why don't you hand it up to my clerk?
7 I'm not -- it looks fairly lengthy. I'm not going to sit her
8 and use your time by looking through it right now. It was my
9 hope with respect to some documents if it came to it, I could
10 do that, but I think that I will continue to reserve and take a
11 look at it.

12 Now, there was a case that you had cited. I don't
13 recall what case it is. It talked about the policy and favor
14 of confidentiality and so on.

15 MS. ROSENSWEIG: Yes.

16 THE COURT: But the -- I recall -- at least I believe
17 I recall that in plaintiff's arguments, he points it out that
18 the circumstances of that case or other cases tended not to be
19 the kinds of circumstances we have here where we have
20 essentially a key player, an employee of the defendant who was
21 the act -- alleged actor.

22 Here you'd be talking about someone who would -- I
23 understand she's not a current employee, so therefore not a
24 party witness, but nonetheless talking more about people who
25 are more outside of litigation than she is. She still has a

1 major role. She's still a defendant's witness, I would
2 imagine. You know, defendant's former employee and the
3 supervisor you're going to have to rely on.

4 Does that change the posture so that some of those
5 concerns about privacy and about confidentiality in general,
6 some of those concerns are different in this kind of context?

7 MS. ROSENSWEIG: No, Your Honor, I don't think that
8 does because there is nothing -- and I think you'll see when
9 you read the agreement there's nothing in that agreement that
10 bears upon this case whatsoever. And if plaintiff wants to
11 argue that there's a bias because there was an agreement
12 between Ms. Eckstein and UBS concerning the terms of her
13 departure from the company, he knows that already and he can
14 argue that and the Hous [Ph.] case, this -- v. AB Dick, and the
15 cite on that is 162 Miss 2d 263. The language on point is at
16 pages 266 to 267, and that's New York County Supreme Court
17 1994. It says that, that all that's necessary for exploration
18 of the buyer's credibility issue is the fact that there was an
19 agreement. The specific terms of the agreement are not
20 relevant. They are invasive of the privacy of a nonparty here.
21 They don't relate to any of the issues in this case.

22 THE COURT: And what would either of you think of the
23 possibility of a production -- again, obviously Ms. Eckstein
24 might have her own views, so putting that aside for a moment,
25 what would either of the parties here think of the concept of

1 production of the document in redacted form to the extent that
2 I might find that any particular provisions might
3 have relevance here, not saying one way or the other that I
4 think that they do but, you know, not producing portions of the
5 agreement that would clearly seem to have no relevance here and
6 limiting production to those provisions that might possibly,
7 you know, be relevant if for nothing else than for cross-
8 examination?

9 What would either of you, it's just -- it's just off-
10 the-cuff reaction to that?

11 MR. WHINSTON: That would be fine, Your Honor. I
12 think we're not interested in material that's not relevant to
13 the case. We're interested in material that either reflects on
14 Ms. Eckstein's management -- managerial capabilities and
15 actions that reflect on Mr. Khan or that reflect on the
16 circumstances of Mr. Khan's termination or that reflect on
17 potential areas of bias or that can be used in cross-
18 examination.

19 THE COURT: Let me just say before you respond to
20 that, Counsel, I said I wasn't going to look now, but I can't
21 help it. The document is now in front of me, and so I'm
22 flipping the pages.

23 At first glance I am not seeing anything that relates
24 to Ms. Eckstein's own performance. The reason for
25 separation -- I won't even use the word "termination." I mean,